

## REMARKS

### **I. Introduction**

In response to the pending Office Action, Applicant has amended claims 1, 4, 8, 11, 15 and 22, and have cancelled claims 5, 6, 12, 13, 19 and 20, without prejudice. In addition, new claims 28-30 have been added. No new matter has been added.

It is noted that claims 1, 8 and 15 have been amended to recite the elements set forth in claims 5, 12 and 19, respectively. It is further noted that the language of the dependent claims has been revised so as to more specifically recite the intended subject matter. As claims 5, 12 and 19 were indicated to recite patentable subject matter, it is respectfully submitted that, as amended, claims 1, 8 and 15 recite patentable matter and are in condition for allowance. Claim 22 was also amended in the same manner as claims 1, 8 and 15, and therefore it is submitted that claim 22 is patentable for at least the same reasons.

Further, new claims 28, 29 and 30 substantially track original claims 1, 8 and 15 amended to include the elements set forth in claims 6, 13 and 20, respectively. Once again, the language of the dependent claims has been revised to more specifically recite the intended subject matter. As claims 6, 13 and 20 were indicated to recite patentable subject matter, it is respectfully submitted that new claims 28-30 recite patentable matter and are in condition for allowance.

In view of the foregoing amendments, only independent claim 23 remains under rejection. Applicants respectfully submit that claim 23 is patentable over the cited prior art references for the following reasons.

**II. The Rejection Of The Claim 23 Under 35 U.S.C. § 102**

Claim 23 was rejected under 35 U.S.C. § 102(e) as being unpatentable in view of USP No. 6,114,071 to Chen. Applicant respectfully submits that the claim 23 is patentable over Chen for at least the following reasons.

As recited by claim 23, the non-resolvable optical proximity correction feature (i.e., gray bar) has a transmission coefficient in the range of greater than 0% and less than 100%. As detailed in the specification, the transmission coefficient of the non-resolvable correction features is variable so as to allow for control of the magnitude of the diffraction orders received by the collection lens, thereby allowing for optimization of the imaging process.

Turning to Chen, the non-resolvable correction features (i.e., scattering bars) disclosed therein do not have a transmission coefficient which is greater than 0% and less than 100%. Each of the scattering bar features in Chen appear to have a 0% transmission coefficient. It does not appear that Chen discloses or suggests that the transmission coefficient of the scattering bars is variable. The amount of halftoning provided by the scattering bar feature 16 is controlled by varying the height and width of each individual element. However, Chen does not appear to disclose that the transmission coefficient of the individual elements can be other than 0%.

Further, with regard to the non-resolvable biasing segments 32 disclosed, for example, in Fig. 3 of Chen, once again, the percentage of halftoning (or transmission) is controlled by varying the height and the width of the biasing segments (see, col. 3, lines 5-8), not by varying the transmission coefficient of the scattering bar. Indeed, there does not appear to be any disclosure or suggestion that the transmission coefficient of the biasing segments is variable.

Accordingly, as anticipation under 35 U.S.C. § 102 requires that each element of the claim in issue be found, either expressly described or under principles of inherency, in a single

prior art reference, *Kalman v. Kimberly-Clark Corp.*, 713 F.2d 760, 218 USPQ 781 (Fed. Cir. 1983), and Chen, at a minimum, does not disclose or suggest the use of non-resolvable optical proximity correction features having a transmission coefficient in the range of greater than 0% and less than 100%, Chen does not anticipate claim 23, or any claim dependent thereon.

**III. All Dependent Claims Are Allowable Because The Independent Claims From Which They Depend Are Allowable**

Under Federal Circuit guidelines, a dependent claim is nonobvious if the independent claim upon which it depends is allowable because all the limitations of the independent claim are contained in the dependent claims, *Hartness International Inc. v. Simplimatic Engineering Co.*, 819 F.2d at 1100, 1108 (Fed. Cir. 1987). Accordingly, as all independent claims are patentable for the reasons set forth above, it is respectfully submitted that all pending dependent claims are also in condition for allowance.

**IV. Request For Notice Of Allowance**


Having fully responded to all matters raised in the Office Action, Applicants submit that all claims are in condition for allowance, an indication for which is respectfully solicited.

If there are any outstanding issues that might be resolved by an interview or an Examiner's amendment, the Examiner is requested to call Applicants' attorney at the telephone number shown below.

Respectfully submitted,

McDERMOTT, WILL & EMERY

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